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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,299	03/01/2004	Basil C. Hosmer	47583/P046US/10316464	3513

59061 7590 10/02/2006

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EXAMINER
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LEE, JUSTIN YE

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/791,299	<b>Applicant(s)</b> HOSMER ET AL.	
	<b>Examiner</b> Justin Y. Lee	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-8, 9-13, 15-16, 17-21, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nanja (US 2002/0107830 A1) in view of Phillips et al. (US 2004/0176085).

Consider claim 1. Nanja discloses receiving information preferences from a plurality of subscribers to said mobile information system (paragraph 20, aggregator application 207 receives user web data requests);

Transmitting said aggregated information preferences to one or more data source providers (paragraph 16, the requests are sent to web server 105); and

Assembling data for said mobile information system using said aggregated information preferences (paragraph 16, the web server 105 extracts requested information from content 213 and sends to the system 103).

Nanja does not disclose aggregating said information preferences.

Phillip et al. further disclose aggregating said information preferences (paragraph 83, the aggregator 240 can aggregate the information received on the customer's premises, also see paragraph 44, 63-66 and Fig. 1E).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Phillip et al. into the teachings of Nanja for the purposes of increasing efficiency (paragraph 4).

Consider claim 2. Nanja also discloses separating said information preferences according to one of a plurality of channels of said mobile information system (Fig. The requests are separated and sent to servers 105a-105c according to requested service).

Consider claim 3. Nanja also disclose transmitting said aggregated information preferences to one or more data source providers responsible for providing said data for said one of said plurality of channels (Fig. 1, the requests are sent to servers 105a-105c).

Consider claim 4. Nanja also disclose transmitting said assembled data to said mobile information system; and sending subscriber-specific feed data streams to each one of said plurality of subscribers according to said information preferences entered by said plurality of subscribers (paragraph 16-18, the extracted information from content 213 according to the requests is sent to the wireless unit 101).

Consider claim 5. Nanja also disclose determining which of said plurality of subscribers are connected to said mobile information system; and wherein said sending step comprises: sending subscriber-specific feed data streams to connected ones of said plurality of subscribers (paragraph 18, the data synchronizer application 208 transfer any new information to the connected wireless unit 101 so it must be able to detect the connected wireless unit before transferring the new information).

Consider claim 7. Nanja also disclose said data is contained in a data document, wherein said data document is created from a data-descriptive meta-language (paragraph 16, XML is a data-descriptive meta-language).

Consider claim 8. Nanja also disclose said data document is obtained by one of:

Polling a Web site containing a formatted data document; and

Polling a data server containing an unformatted data document, wherein an data style layout transform is used to transform said unformatted data document into a formatted data document (paragraph 16, the information can be obtained directly from web content 213 or through a middleware components 212 for generating the data in XML format).

Consider claims 9-13, 15-16, 17-21, 23-24. Claims 9-13 and 17-21 do not substantially differ from claims 1-5 and claims 15-16 and 23-24 do not substantially differ from claims 7-8 in that is a system and computer program product performing the operations of the method of claims 1-5 and 7-8 (also see Nanja, Fig. 2 and paragraph 2 discloses the aggregation is done by a software). Thus, see claims 1-5 and 7-8 rejection for details.

3. Claims 6, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nanja (US 2002/0107830 A1) in view of Phillips et al. (US 2004/0176085) as applied to claim 4 and further in view of Ta et al. (US 2004/0199635 A1).

Consider claim 6. Nanja and Phillips et al. do not disclose checking assigned bandwidth limitations for each of said plurality of subscribers; and wherein said sending

step comprises: sending subscriber-specific feed data streams to ones of said plurality of subscribers whose assigned bandwidth limitations has not been exceeded.

Ta et al. further disclose checking assigned bandwidth limitations for each of said plurality of subscribers; and wherein said sending step comprises: sending subscriber-specific feed data streams to ones of said plurality of subscribers whose assigned bandwidth limitations has not been exceeded (paragraph 41, checking to see if the bandwidth limit exceeded or not. If not, then transmit data).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Ta et al. into the teachings of Nanja and Phillip et al. for the purposes of improved bandwidth allocation (paragraph 14).

Consider claims 14 and 22. Claims 14 and 22 do not substantially differ from claim 6 in that is a system and computer program product performing the operations of the method of claim 6. Thus, see claim 6 rejection for details.

4. The specification as a whole do not expressly disclose what a computer program product is. The examiner has defined a computer program product in claim 17 is a computer program product consisting of a computer readable medium with computer program logic recorded thereon.

***Response to Arguments***

5. Applicant's arguments filed 8/22/06 have been fully considered but they are not persuasive.

Regarding the Phillips reference, applicant states that, Phillips is non-analogous art because its general scope is outside the pertinent field of endeavor of the present invention and because the subject matter disclosed in Phillips is irrelevant to the particular problem with which the present inventor is involved.	In response to applicant's argument that Phillips reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See <i>In re Oetiker</i> , 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Phillip discloses systems, methods, and apparatus for providing a plurality of telecommunication services which is in the same field as the applicant claimed invention which is also directed to telecommunication.
Regarding the Phillips reference, applicant	In response to applicant's argument

<p>states that, there is no need to "increase the efficiency" of the Nanja's system and that there is no indication, either in Phillips, Nanja, or in the knowledge generally available to a person of ordinary skill in the art, that Phillips' network interface device would indeed "increase the efficiency" of Nanja's system.</p>	<p>that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See <i>In re Fine</i>, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and <i>In re Jones</i>, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation can be found at paragraph 4 of Phillips (increasing both efficiency for the providers and ease of use for the customer).</p>
<p>Regarding the Phillips reference, applicant states that, Phillips' network interface is fixed between a telecommunications service provider and consumer premises</p>	<p>In contrast to applicant's assertions, Phillips clearly disclose that the system can work both fixed and wirelessly (see Fig. 1F), not just fixed.</p>



<p>equipment. Therefore, adding Phillips' fixed network interface device into Nanja's mobile system would require an improper substantial reconstruction and redesign of the elements shown in Nanja, as well as a change in the basic principle under which Nanja was designed to operate.</p>	
<p>Regarding the Phillips reference, applicant states that, the motivation put forth by the Office Action—i.e., "increasing efficiency," is merely a general incentive, and not an objective reason to combine the references.</p>	<p>In contrast to applicant's assertions, even thou the cited motivation, increasing efficiency, is merely a general incentive, but the Examiner also cited paragraph 4 as a whole to further explain why and what is becoming more efficiency.</p>
<p>Regarding the Phillips reference, applicant states that, it does not teach or suggest aggregating user preferences.</p>	<p>In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See <i>In re Keller</i>, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); <i>In re Merck &amp; Co.</i>, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.</p>

	<p>1986).</p> <p>Nanja discloses web data aggregator application 207 receives and stores user web data requests (paragraph 20, the user web data requests is the claimed user preferences). Phillips reference is merely used to teach how an aggregator works. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Phillip et al. into the teachings of Nanja for the purposes of increasing efficiency (paragraph 4).</p>
<p>Regarding the Ta reference, applicant states that, there is no indication of a need for "improved bandwidth allocation" in Nanja nor Phillips.</p>	<p>In contrast to applicant's assertions, a proper 35 U.S.C. 103 rejection requires a suggestion or motivation to combine 2 or more prior art references and the combination of Nanja and Phillips do require additional teachings from Ta to meet all the applicant's claimed limitations. Therefore, a suggestion or motivation is needed for both the 35 U.S.C. 103</p>

	rejection and to meet all the limitations of the claims and the suggestion or motivation can be found in paragraph 14 or Ta reference.
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***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Y. Lee whose telephone number is (571) 272-5258. The examiner can normally be reached on M - F 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Lee  
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9/26/06

  
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